

**FOR THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MARIA DELBOSQUE

v.

SAM'S EAST, INC.

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§

Civil Action No. _____

DEFENDANT'S NOTICE OF REMOVAL

I. INTRODUCTION

Pursuant to 28 U.S.C. § 1441, *et seq.*, this civil action is removed from the County Court at Law No. 1 of Dallas County, Texas, where this matter was pending under Cause No. CC-22-04153-A and styled *Maria Delbosque v. Sam's East, Inc.* (the "State Court Action"). Defendant hereby files its Notice of Removal.

II. NATURE OF THE SUIT

This case is a personal injury case in which Plaintiff alleges she was injured when she slipped and fell on a substance, possibly a grape, at one of Defendant's retail stores. Plaintiff, in her initial state court petition, asserts claims based on negligence under a premises liability theory and respondeat superior. Plaintiff "seeks monetary relief of \$250,000 or less." *Plaintiff's Original Petition*, p. 2.

III. TIMELINESS OF REMOVAL

Plaintiff commenced this lawsuit by filing her Original Petition on August 2, 2022. Defendant was served with the Original Petition on or about August 4, 2022, through the registered agent for Defendants. Defendant hereby files its Notice of Removal. Defendant's removal is timely because it is filed within thirty days after the Defendants were served via a registered agent. 28 U.S.C. § 1446.

IV. BASIS FOR REMOVAL JURISDICTION

Removal is proper under 28 U.S.C. §§ 1441 and 1332(a)(1) because there is complete diversity of citizenship between Plaintiff and Defendant and the amount in controversy exceeds \$75,000.

Plaintiff is a resident and citizen of Texas as evidenced by her admission that she is a citizen of and resides in the State of Texas. *See Plaintiff's Original Petition*, p. 1.

The proper Defendant is Sam's East, Inc. Sam's East, Inc., is now and was at the time of the filing of this action an Arkansas for-profit corporation with its principal place of business in Arkansas. Defendant Sam's East, Inc., is an indirect wholly-owned subsidiary of Walmart, Inc. Sam's West, Inc., is the sole shareholder of Sam's East, Inc. Walmart, Inc. f/k/a Wal-Mart Stores, Inc., is the sole owner of Wal-Mart Stores East, LLC and Sam's West, Inc.

V. THIS NOTICE IS PROCEDURALLY CORRECT

Defendant has attached to this Notice of Removal the documents required by 28 U.S.C. § 1446(a) and Local Rule 81.1(a)(4) as follows:

- A. Index of all documents that clearly identifies each document and indicates the date the documents was filed in state court;
- B. A copy of the docket sheet in the State Court Action; and
- C. Each document filed in the State Court Action.

This action may be removed to this Court pursuant to 28 U.S.C. § 1441(b), because Plaintiff is a citizen of Texas and Defendant is not a citizen of Texas, the state in which the action was brought. This action is removable to this Court because this United States District Court and Division embraces the place where the State Court Action was pending. 28 U.S.C. §§ 124(c)(6), 1441(a).

In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to all parties and Defendant has provided to the Clerk of the County Court at Law No. 1 of Dallas County, Texas, their Notice of Removal.

VI. JURY TRIAL

Defendant, the appropriate jury fee being paid, hereby makes a demand for a jury trial.

VII. CONCLUSION

Since diversity jurisdiction exists over Plaintiff's claim as set forth herein, Defendant desires, and is entitled to, remove the lawsuit filed in the County Court at Law No. 1 of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division.

WHEREFORE, PREMISES CONSIDERED, Defendant Sam's East, Inc., pursuant to and in conformance with the statutory requirements, removes this action from the County Court at Law No. 1 of Dallas County, Texas, to this Court.

Respectfully submitted,

/s/ Steven J. Moses

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that on the 2nd day of September, 2022, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Steven J. Moses

STEVEN J. MOSES